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etc., *R. Co.*, 114 Mo. 348, 21 S. W. 823. In cases similar to the instant case, where a carrier by advertisement and reduced rates had induced large crowds to assemble at its terminal, it was held liable for injuries to a passenger, who was pushed by the crowd. *Taylor v. Pennsylvania Co.*, 50 Fed. 755; *Illinois Cent. R. Co. v. Treat*, 199 Ill. 576, 54 N. E. 290.

CONTRACTS—IMPOSSIBILITY OF PERFORMANCE—ANTICIPATION OF WAR.—A German steamship, owned by the defendant, sailed from New York with a consignment of gold belonging to the plaintiff, to be delivered at Plymouth, England. The bills of lading were made out in American form, excepting only "arrest and restraint of princes, rulers, or people." The master had knowledge of political facts indicating that Germany was on the verge of war with England. When far out on the high seas, he received a wireless message from the defendant, stating that war had been declared, and directing him to return to New York. If war had actually been declared the master would have been excused from the performance of the contract; but, in fact, war had not broken out, and the ship might have reached Plymouth a few hours before war was officially declared. The master, relying in good faith on the message, returned to America. The steamship company was sued for its failure to deliver the gold. *Held*, the defendant is not liable. *North German Lloyd v. Guaranty Trust Co.*, 37 Sup. Ct. 49.

It is a general rule of contract law that the breach of the express terms of a contract will be excused, when the non-performance was caused by circumstances, which were not in the minds of the parties, and which, if they had been dealt with, would have doubtless materially altered the contract. Thus, a breach of a covenant was excused, when caused by obedience to a subsequent act of the legislature, not within the contemplation of the parties. *Baily v. De Crespigny*, L. R. 4 Q. B. 180. Also, a laborer was excused from performance of his contract, on account of the prevalence of cholera in the vicinity, though it appeared that other laborers, who continued to work there, failed to contract the disease. *Lakeman v. Pollard*, 43 Me. 463, 69 Am. Dec. 77.

The same principle should apply to contracts of shipping. In most of the cases in which the master was excused from performance of his contract, the exceptions in the bills of lading were held to justify such non-performance. *The Styria*, 186 U. S. 1; *Nobel's Explosive Co. v. Jenkins*, L. R. (1896) 2 Q. B. 326. However, in these cases the courts went further, and declared that, aside from the terms of the bills of lading, the conduct of the captain would be justified on the ground that the duty was imposed upon him of taking reasonable care of the vessel and the cargo intrusted to him. *The Styria*, *supra*; *Nobel's Explosive Co. v. Jenkins*, *supra*. And, though these statements are *dicta*, yet they clearly show the trend of authority.

In the principal case, it must be noted that the court based its decision, not only on the exception in the bill of lading, but mainly upon what it considered a necessarily implied exception that, if the master, under reasonable apprehension of imminent danger, should deem it proper to turn back, he would be justified in doing so. Had it been

practically certain that the vessel would have been captured it cannot be doubted that the return would have been justified. See *Mitsui v. Watts*, (1916) 2 K. B. 626.

The mere fact that the cargo and the ship, were not both exposed to the danger does not alter the rule, for the master is under the same duty to protect his ship as the cargo. *The Teutonia*, L. R. 4 P. C. 171. As the agent of all concerned, he is still bound to a prudent regard for the interest of the cargo and must endeavor to hold the balance evenly between ship and cargo when their interests conflict. *The Kronprinzessin Cecile*, 228 Fed. 946; *The Styria*, *supra*. Those who have committed their interests to him must be presumed to have done so with knowledge of the fact that such is the master's duty. *The Teutonia*, *supra*. The consignee of the cargo cannot expect a foreign master to run greater risks than he himself would in respect to goods of his own country. *The San Rowan*, L. R. 5 P. C. 301.

As the master was not bound to deliver the gold in England at the cost of capture of the ship, he had a right to take reasonable precaution to avoid capture; and it would seem that the joint decision of the owners and the master that the ship should return was an exercise of reasonable precaution.

CONSTITUTIONAL LAW—POLICE POWER—REGULATING THE HOURS OF LABOR.—The plaintiff in error was indicted under a state statute, which provided that it would be unlawful to employ any person in any mill, factory or manufacturing establishment for more than ten hours a day, with a proviso that employees might work as much as three hours overtime at rate of time and one-half of the regular wage. It was contended that this statute was an unreasonable wage law, and hence not a valid exercise of police power. *Held*, statute constitutional. *Bunting v. Oregon*, 37 Sup. Ct. 435. See NOTES, p. 55.

CORPORATIONS—LEGAL ENTITY THEORY—EFFECT OF WAR.—The plaintiff was a corporation chartered in New Jersey. Of the fifty shares constituting the capital stock, forty-seven were owned by Germans, residing in Germany, and the remaining three shares were owned by two Americans and an Austrian. The management of the corporation was by the Austrian. The board of directors was composed of the two Americans, the Austrian, and a German, residing in Germany. After war was declared, an action was brought against the defendant, and the defense was raised that the plaintiff was an alien enemy. *Held*, the plaintiff is not an alien enemy, and the suit will not be suspended. *Fritz Schulz, Jr., Co. v. Raimes & Co.*, 166 N. Y. Supp. 567. See NOTES, p. 63.

CORPORATIONS—RIGHT OF STOCKHOLDERS TO INSPECT BOOKS—ABUSE OF RIGHT.—A petition was filed by the State of Delaware, on the relation of a stockholder to compel the production of the books of the defendant corporation. From the inspection of the books the stockholder desired to secure information as to the value of the stock